



What Are Rural Cluster Development and the Density/Cluster Exchange Options?

WHAT IS RURAL CLUSTER DEVELOPMENT?

Rural Cluster development is a form of subdivision used in western Howard County. The residential lots in a rural cluster development average one acre in size and are grouped together, rather than being scattered across the entire parcel being subdivided. With a maximum density of one dwelling per 4.25 acres, there is a residual area after the residential lots, roads, and stormwater management facilities are created. The residual “preservation area” is protected by permanent easements that prohibit further development.

WHY IS CLUSTERING USED?

The rural cluster provisions were added to the Zoning Regulations in 1992 to provide a form of subdivision that would conserve farmland and preserve the rural and scenic quality of the landscape, while creating attractive rural residential developments.

Cluster subdivision plans are evaluated for their success in accomplishing several goals related to this purpose. These goals include minimizing potential adverse impacts on existing farm operations; forming connections between preservation parcels and existing blocks of preserved land; creating preservation parcels that are suitable for agriculture or that protect sensitive environmental features; and, providing buffers between farmland and residential lots. Because rural western Howard County also contains many subdivisions created under the three-acre zoning in effect from 1977-1992, the Department of Planning and Zoning (DPZ) discourages the location of clusters of one-acre lots abutting existing neighborhoods of three-acre or larger lots, without a perimeter setback or a wooded/landscaped buffer.

WHAT ARE THE REQUIREMENTS FOR RURAL CLUSTERING?

All of Howard County’s residential land outside of the public water and sewer service area is divided into two zoning districts: RC (Rural Conservation) and RR (Rural Residential). The official zoning maps of Howard County, available for review or purchase at the DPZ Public Service Desk, establish the zoning for each parcel of land. The Howard County Zoning Regulations should be consulted for information on the permitted uses, minimum setbacks and other specific requirements for these districts.

The RC and RR Districts allow two primary types of subdivision:

- Cluster subdivision allows clustered residential lots, by right, at a maximum density of one dwelling unit per 4.25 gross acres. The remaining area of the parcel being subdivided is placed in one or more preservation parcels. If a preservation parcel is larger than 25 acres, one additional dwelling unit (in addition to the allowed density of 1:4.25 acres) is permitted for every 25 acres of area within that preservation parcel. Cluster subdivision lots with individual septic systems must be between 40,000 and 60,000 square feet in size. Cluster subdivisions using a shared community septic system have a minimum lot size of 33,000 square feet.
- Non-cluster subdivision allows traditional subdivision within a minimum lot size of three acres.

RC and RR Districts differ as to which subdivision types are permitted:

- RC – Rural Conservation
 - Parcels 20 acres or larger may only be subdivided using the cluster subdivision provisions.
 - An exception is allowed for large parcel subdivision, in which parcels larger than 100 acres may be subdivided into parcels of at least 50 acres each.
 - Minor cluster subdivisions (three or fewer cluster lots plus a residual lot) are permitted without recording a preservation easement on the remainder if the potential density is not exhausted. An easement is placed on the preservation parcel when four or more cluster lots are created.
- RR – Rural Residential
 - Any parcel may be subdivided using either the cluster or non-cluster subdivision provisions.
 - Minor cluster subdivision requirements are the same as in the RC District, as explained above.

WHAT IS A PRESERVATION PARCEL?

The remaining area after residential lots are clustered in a development is called the preservation parcel. Ideally, the preserved area will be contained in a single preservation parcel. However, it will sometimes need to be divided into more than one preservation parcel due to the natural features and constraints of the parcel being subdivided. The Zoning Regulations allow only one preservation parcel within a cluster subdivision to be improved by a dwelling. Preservation parcels without dwellings often become part of a larger farm or estate that includes several parcels.

Use of the density or cluster exchange option (DEO/CEO) process will also result in the establishment of a preservation parcel on the sending property involved with a rural cluster development. The DEO/CEO process will be explained in detail later in this brochure.

Preservation Parcel Design

There are three major types of preservation parcels:

- **Agricultural Preservation Parcel**

This type of preservation parcel should be as large as possible and separated from the cluster lots by a significant buffer. The DPZ Agricultural Preservation Program Administrator should be contacted early in the subdivision process so that guidelines for an agricultural easement on the preservation parcel can be provided.

- **Environmental and/or Buffer Preservation Parcels**

Properties with environmentally sensitive areas or natural amenities (floodplain, wetlands, streams, steep slopes, forested areas, etc.) should be designed with special consideration given to protecting these natural resources by locating them within the preservation parcel.

- **Stormwater Management or shared Septic System Parcels**

This type of preservation parcel should be sized to adequately accommodate the Development's stormwater management facilities and/or shared septic systems.

Preservation parcels can also be designed to provide a buffer between the cluster lots and adjacent non-cluster lots, farming operations, or preserved land. This type of preservation parcel can also provide attractive green space for the cluster development.

Deed of Preservation Easement Agreement

When a cluster subdivision plat is recorded, a Deed of Preservation Easement for each Preservation Parcel must also be recorded in the Land Records Office of Howard County. This document describes the prohibitions against further subdivision and development, the primary purpose of the preservation parcel, and the provisions for maintenance of the preservation parcel.

Responsible easement holders are required to ensure that the easement provisions are upheld. The Zoning Regulations require the following easement holders for preservation parcels.

- If the preservation parcel is viable for farming, an easement may be dedicated to the County Agricultural Land Preservation Program.
- For most other preservation parcels, **two** of the following entities must be parties to the easement agreement in addition to the property owner:
 - Howard County Government
 - Maryland Environmental Trust or Maryland Historic Trust
 - A land conservation organization which has been approved by the County Council

- The Homeowner's Association for the development
- Only one of the above parties is required for easements on preservation parcels that are created solely to encompass stormwater management or shared sewage disposal facilities or if the preservation parcel will be owned by Howard County.

Permitted Uses

The uses allowed on a preservation parcel are listed in the Howard County Zoning Regulations and include such uses as farming, conservation areas, a single-family detached dwelling, private outdoor recreational facilities for the cluster development residents, commercial communications antennas and some government uses. Easement agreements by the other entities may be more restrictive.

In addition, accessory uses listed in the Zoning Regulations are permitted on preservation parcels, including value-added processing of farm agricultural products, agritourism, and marketing of farm products.

The following conditional uses may be permitted upon approval from the Howard County Hearing Examiner:

- Agribusiness uses (only in the RC district).
- Country clubs and golf courses.
- Farm tenant houses on lots at least 25 acres, but less than 50 acres.
- Riding academies and stables.
- Charitable or philanthropic institutions dedicated to environmental conservation.

Other conditional uses may be permitted on a preservation parcel if the use does not require construction of new principle structures or use of more than 2% of the preservation parcel up to a maximum of 1 acre of outdoor area, provided the land area used is not suitable for agriculture.

WHAT ARE THE DENSITY EXCHANGE OPTION AND THE CLUSTER EXCHANGE OPTION?

The Density Exchange Option overlay district was established to provide landowners in the RC and RR zones the opportunity and incentive to preserve significant areas of farmland in the rural area of the County. This District is intended to encourage the clustering of residential development in areas where development will not have an adverse impact on farm operations.

To accomplish this goal, this district allows residential density in the RC and RR zones to be transferred between parcels. The "sending parcels" must be permanently preserved through easements that meet the requirements described above for preservation parcels. Density exchanges employing this process result in large parcels being preserved in perpetuity, while residential development is directed to parcels, which are able to absorb the additional dwellings. There are two variations, the density exchange option and the cluster exchange option.

Density Exchange Option (DEO)

The Density Exchange Option allows residential density to be transferred from a sending parcel to a receiving parcel if the following eligibility requirements are met.

■ **Sending Parcels**

- Must be in the RC zone.
- The minimum preservation easement area shall be 20 contiguous acres.
- Must not be subject to any recorded forest conservation easement or other recorded easement that reduces its development rights. If such an easement encumbers a portion of the parcel, the encumbered acreage must be deducted from the density sending calculations and the required 20 acre minimum must be fulfilled exclusive of these areas.
- Density may be transferred from a sending parcel at a maximum rate of one development unit per three gross acres.

Receiving Parcels

- May be in the RR or RC zone.
- In the RC zone, the lot or parcel must be less than 50 acres in size and adjacent to lots of 10 acres or less along at least 60% of its property perimeter. There is no minimum parcel size in RR district.
- Must not be subject to any recorded forest conservation easement or other recorded easement, which restricts its subdivision or development.
- May not be within 2,500 feet of a water supply reservoir as determined by the State of Maryland.
- Density may be developed up to one dwelling unit per 2 net acres (excludes area of floodplain and steep slopes). Actual density achieved on a particular site may be limited by environmental and other constraints.

Cluster Exchange Option (CEO)

The Cluster Exchange Option permits density to be exchanged between a sending parcel and a receiving parcel in the RC District that does **not** meet the above DEO receiving parcel criteria. However, a lower rate of density exchange is permitted (one unit per 4.25 gross acres of area in the sending parcel instead of 1:3). All other requirements are the same.

How do I purchase or sell development rights?

Negotiations for the purchase and sale of development density rights take place privately between the property owner and developer, subject to approval of the sending and receiving parcels by DPZ. The developer must submit the density exchange information to DPZ concerning the potential sending parcel(s): location, gross acreage, and the number of proposed DEO/CEO sending units to be transferred. A Plat of Preservation Easement and a Deed of Preservation Easement for each sending parcel must be recorded concurrently with the final plat for the receiving parcel.

Please contact the Department of Planning and Zoning concerning the processing of the sending and receiving parcel documentation and plans. DPZ maintains a list of potential sellers and purchasers of development rights to assist in this process. This list is available upon request at the DPZ Public Service Desk.

AN IMPORTANT NOTE ...

This guide is meant to provide a basic understanding of rural cluster development and the density/cluster exchange option process. It is not intended as a substitute for the Zoning or the Subdivision and Land Development Regulations.

Rev. 11/28/07